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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/069,095 | 06/11/2002 | Robert Sauseng | 082110-000000US | 1677 |
| 20350 | 7590 | 10/24/2003 | EXAMINER | |
| TOWNSEND AND TOWNSEND AND CREW, LLP | | | LUK, EMMANUEL S | |
| TWO EMBARCADERO CENTER | | | ART UNIT | |
| EIGHTH FLOOR | | | PAPER NUMBER | |
| SAN FRANCISCO, CA 94111-3834 | | | 1722 | |

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/069,095 | SAUSENG ET AL. | |
| | Examiner Emmanuel S. Luk | Art Unit 1722 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 June 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-15 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (6126431) in view of Heiber et al (5169651), Muschelknautz et al (4553996) and Rubio et al (4781557).

Hayashi teaches the claimed apparatus having an apparatus having two sets of rollers disposed adjacent and driven for rotation around their horizontal axes (Col. 2, lines 47-65), the rollers of each set being supported on a roller carrier (14), a gap between the two roller sets that narrows (Fig. 2), the two sets can be moved against each other or apart by the eccentric drive means (12) that is bearingly supported on each roller carrier, and further having a connecting rod (15), the rollers having similar size diameters (Fig. 2).

Hayashi fails to teach a framework, walls, adjustment means and a conduit in the rollers.

Heiber teaches a framework (35) that supports the rollers (24-31) and roller carrier (32) and adjustment means (33, 34) for adjusting the carriers towards and away from each other. In regards to claim 12, the adjustment means teaches a screws with the adjustable supports (33, 34), one of ordinary skill in the art recognizes the equivalent function of the adjustment means in relation to the toothed rack and toothed wheel. This is seen in Muschelknautz with the toothed rack and wheel (42, 43) that is used to adjust the position of the segment (2b).

Rubio teaches rollers (44) comprising of sintered porous material (Col. 9, lines 53-56) that permits a solution to flow in a conduit in the roller [hollow shaft] (Col. 10, lines 7-14). In regards to the material, it would have been obvious to one skilled in the art to find the optimum sinter volume and grain size of the porous material through routine experimentation as it is well known in the arts to use sintered porous materials for rollers.

It would have been obvious to one of ordinary skill in the art to modify Hayashi with a framework and adjustment means as taught by Heiber for providing additional means of adjusting the roller carriers toward one another and thus control the size of the gap, a toothed wheel and rack as taught by Muschelknautz for adjusting the elements and the rollers as taught by Rubio for providing fluid material to be added into the product as it travels along the rollers.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hayashi, Hayashi et al and De Mets.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (703) 305-1558. The examiner can normally be reached on Monday through Friday 8 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (703) 308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

E.L.

Joseph Drodge
JOSEPH DRODGE
PRIMARY EXAMINER